

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

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CC:CORP:B02

PLR-138745-07

Date:

December 17, 2007

Parent =

Sub 1 =

Holding =

Operating =

Sub 2 =

Sub 3 =

Sub 4 =

Business A =

Segment B =

Product =

Agreement 1 =

Agreement 2 =

Agreement 3 =

Agreement 4 =

Agreement 5 =

Agreement 6 =

Agreement 7 =

Date A =

Date B =

Year 1 =

a =

b =

c =

Dear :

We respond to a letter, dated August 27, 2007, submitted on behalf of Parent by its authorized representative requesting rulings concerning the Federal income tax consequences of a proposed series of transactions. Additional information was submitted in letters dated November 2, 2007, and December 13, 2007. The information submitted is summarized below.

Facts

Parent is the common parent of an affiliated group of corporations (the "Parent Group") that files a consolidated Federal income tax return on a calendar year basis. Parent indirectly owns all of the outstanding stock of Sub 1. Sub 1 owns all of the stock of Holding, which in turn owns all of the stock of Operating. Sub 1 also owns all of the stock of Sub 2, which owns all of the stock of Sub 3, which owns all of the stock of Sub 4. Each of Sub 1, Holding, Operating, Sub 2, Sub 3, and Sub 4 is a member of the Parent Group.

On Date A, Sub 1 purchased for cash all of the stock of Holding from parties unrelated to Parent (the "Acquisition"). At the time of the Acquisition, Holding was a holding company whose principal asset was the stock of Operating. No election under section 338 was made with respect to the Acquisition.

At the time of the Acquisition, Operating was engaged in Business A. Through the day before Date B, Operating conducted Business A in substantially the same manner as it had since the Acquisition, including engaging in Segment B and owning, managing, and selling Product. In order to conduct Business A, Operating maintained various licenses required by the states in which it operated.

On Date B, a date in Year 1, in order to achieve efficiencies associated with having a significant portion of Business A governed by a single Federal regulatory regime rather than by various state regimes, Operating, Sub 1, Sub 3, and Sub 4 entered into Agreement 1, Agreement 2, Agreement 3, Agreement 4, Agreement 5, Agreement 6, and Agreement 7 (the “Agreements”). The effect of the Agreements as a whole was to transfer from Operating to Sub 3 those assets, including customer contracts, necessary for Sub 3 to engage in Segment B and to transfer from Operating to Sub 4 the employees necessary for Sub 3 to engage in Segment B. The operations transferred pursuant to the Agreements are collectively referred to as the “Transferred Operations”. No money or other consideration, other than the mutual undertakings provided for in the Agreements, was paid or received by Operating, Sub 1, Sub 3, or Sub 4 in connection with the parties’ entering into the Agreements.

Market conditions in Business A had been deteriorating prior to Date B, but the management of Operating and of Sub 3 planned for Operating and Sub 3 to continue indefinitely in the conduct of Business A. Following the execution of the Agreements, however, Business A market conditions deteriorated more rapidly than had been anticipated. The volume of business in Segment B has declined to the point that Sub 3 and Operating have engaged in only a de minimis amount of business in Segment B during the current financial quarter, although Operating owns inventory of Product with a fair market value in excess of \$a.

Following Date B but still in Year 1, the management of Parent decided to cease engaging in Business A by selling it. The management of Parent directed that the Transferred Operations, including the remaining employees of those previously transferred pursuant to Agreement 2 (the number of Sub 4 employees has been reduced during Year 1 from approximately b to approximately c), be restored to Operating in order to enable Business A to be sold as a single integrated unit. The management of Parent directed that the stock of Holding or the assets of Business A be sold before the end of Year 1.

Rescission Transactions

Prior to the planned sale, therefore, Parent plans to engage in transactions intended to result in the parties’ being placed in the position they would have been in had the Agreements never been entered into. For regulatory reasons, however, the transfers for no consideration other than the mutual undertakings that took place pursuant to the Agreements cannot be simply reversed, with the parties’ agreeing that the transferred assets and employees would be directly transferred from Sub 3 and Sub 4 back to Operating for no consideration. Parent therefore has completed some of the following series of transactions, and intends to complete those transactions not yet completed, in order to place the parties in the position they would have been in had there been no Agreements (the following transactions are collectively referred to as the “Rescission Transactions”):

- (1) Sub 3 has caused Sub 4 to convert from a corporation to a limited liability company ("Sub 4 LLC") disregarded as an entity separate from Sub 3 for Federal tax purposes (the "Conversion").
- (2) Sub 3 has transferred all of the membership interests in Sub 4 LLC to Operating for an amount of cash equal to their aggregate fair market value.
- (3) Sub 3 has transferred its rights in its Business A customer contracts to Operating in exchange for cash equal to their aggregate fair market value plus the assumption by Operating of Sub 3's obligations in those contracts.
- (4) Certain aspects of the Agreements have been terminated, and any remaining aspects of the Agreements will be terminated.
- (5) Sub 3 has declared and paid a dividend payable to Sub 2 in an amount equal to the sum of: (a) the cash transferred by Operating to Sub 3 in respect of both the membership interests in Sub 4 LLC transferred in Step (2) and the rights transferred in Step (3); and (b) the net cash Sub 3 derived in the course of conducting the Transferred Operations since Date B through the date of the completion of the Rescission Transactions. The amount of the dividend will be referred to as the "Restorative Distribution Amount."
- (6) Sub 2 has declared and paid a dividend of the Restorative Distribution Amount to Sub 1.
- (7) Sub 1 has contributed the Restorative Distribution Amount to Holding.
- (8) Holding has contributed the Restorative Distribution Amount to Operating.
- (9) Operating will indemnify Sub 3 for any claim resulting from Sub 3's operation of Business A transferred pursuant to the Agreements between Date B and the date of the completion of the Rescission Transactions.
- (10) Sub 4 LLC will be dissolved for state law purposes.

The series of transactions just described will take place prior to the end of Year 1 (although not in the order described above).

Representations

Parent has made the following representations with respect to the Rescission Transactions:

- (a) The intent of the Rescission Transactions is, and the effect of the Rescission Transactions will be, to restore in all material respects the legal and financial arrangements with respect to the Transferred Operations between Operating, Sub 3, and Sub 4 that would have existed had the parties never entered into the Agreements.
- (b) For purposes of representation (a): (1) Sub 3 will be treated as Sub 4's successor in interest after the time of the Conversion so that Sub 4 is treated as if it had liquidated into Sub 3 and otherwise ceased to exist at such time; and (2) following the Conversion, Sub 4 LLC will be disregarded for Federal income tax purposes and the legal and financial arrangements involving the Transferred Operations with respect to Sub 4 will be restored, for Federal income tax purposes, by Sub 3.
- (c) None of Operating, Sub 3, Sub 4, or any other member of the Parent Group has taken or will take any material position for Federal income tax purposes inconsistent with the position that it would have taken had the parties not entered into the Agreements.
- (d) As a result of the Rescission Transactions, the stock basis of each member of the Parent Group, including Holding, Operating, Sub 1, Sub 2, and Sub 3, will be computed in all material respects as if the parties had not entered into the Agreements.
- (e) As a result of the Rescission Transactions, all material items of income, deduction, gain, and loss of each member of the Parent Group will be reflected on the Parent Group's Federal income tax returns as if the parties had not entered into the Agreements.

Ruling

Based solely on the facts and representations submitted, we rule that, for Federal income tax purposes, the Agreements and the Rescission Transactions will be disregarded and all aspects of the Transferred Operations will be treated as having been conducted exclusively by Operating at all times from Date A through the effective date of the Rescission Transactions.

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed that the Conversion will in fact result in Sub 4 LLC being disregarded as an entity separate from Sub 3 for Federal income tax

purposes. Additionally, no opinion is expressed as to the tax consequences of any sale of Holding or of the assets of Business A.

Procedural Statements

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with a power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Filiz A. Serbes
Chief, Branch 3
(Office of Associate Chief Counsel (Corporate))

cc: